



**PRESENT:**

Mr. Sherman W. Litton, Chairman  
Mr. Daniel A. Gecker, Vice-Chairman  
Mr. Phillip G. Cunningham  
Mr. Russell J. Gulley  
Mr. Ronald K. Stack  
Mr. Thomas E. Jacobson, Secretary to the Commission,  
Planning Director

**ALSO PRESENT:**

Mr. Kirkland A. Turner, Development Manager,  
Community Development  
Mr. William D. Poole, Assistant Director,  
Development Review, Planning Department  
Mr. Glenn E. Larson, Assistant Director, Plans and Information  
Section, Planning Department  
Ms. Beverly F. Rogers, Assistant Director, Zoning and  
Special Projects, Planning Department  
Ms. Jane Peterson, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Darla W. Orr, Senior Planner, Zoning and  
Special Projects, Planning Department  
Mr. Gregory E. Allen, Planning Administrator,  
Development Review, Planning Department  
Mr. David A. Hainley, Planning Administrator,  
Development Review, Planning Department  
Ms. Barbara Fassett, Planning Administrator, Advance Planning  
and Research Branch, Planning Department  
Mr. James K. Bowling, Principal Planner, Advance Planning  
and Research Branch, Planning Department  
Mr. Steven F. Haasch, Planner, Advance Planning and  
Research Branch, Planning Department  
  
Ms. Linda N. Lewis, Administrative Secretary, Administrative

Branch, Planning Department  
Ms. Deanna D. Harkabus, Secretary, Administrative  
Branch, Planning Department  
Mr. David W. Robinson, Assistant County Attorney,  
County Attorney's Office  
Ms. Lola M. Rodriguez, Assistant County Attorney,  
County Attorney's Office  
Mr. Allan M. Carmody, Budget Manager,  
Budget and Management Department  
Mr. R. John McCracken, Director,  
Transportation Department  
Mr. Richard M. McElfish, Director,  
Environmental Engineering Department  
Mr. Randolph Phelps, Senior Engineer,  
Utilities Department  
Assistant Fire Marshal Steve Hall, Fire and Life Safety,  
Fire Department  
Ms. Cynthia Owens-Bailey, Director of Planning,  
School Administration

### **WORK SESSION**

At approximately 12:00 p. m., Messrs. Litton, Gecker, Cunningham, Gulley, Stack and staff met in the Executive Session Meeting Room, Chesterfield County Administration Building for lunch and a work session to discuss the following:

**ANNUAL MEETING:**     **Planning Commission to meet in Executive Meeting Room, Chesterfield Administration Building.**

**A.     Election of Officers for 2003:**

- Chairman
- Vice Chairman

**B.     Adoption of Planning Commission Meeting Dates for 2002.**

**REGULARLY SCHEDULED MEETING:**     **Planning Commission to meet in Executive Meeting Room, Chesterfield Administration Building.**

**A.     Requests to postpone action, emergency additions or changes in the order of presentation.**

**B.     Review Day's Agenda:**

(NOTE: At this time, any items listed for the 3:00 p. m. and 7:00 p. m. Sessions will be discussed.)

**C.     Plans and Information Section Projects Update.**

**D.     Work Program – Review and Update.**

**E.     Consideration of the following Administrative Substantial Accord Determination:**

<b><u>CASE AND DISTRICT</u></b>	<b><u>APPLICANT</u></b>	<b><u>REQUEST</u></b>	<b><u>PROJECT NAME</u></b>
03PD0222 Bermuda	River Oaks Development Co. LLC	Substantial Accord Determination	Piney Branch Pump Station

**F. Discussion** relative to:

- ◆ **Review of Commercial and Industrial Uses Project.**
- ◆ **Fire Emergency Access Policy.**
- ◆ **Update relating to General Assembly Actions concerning Manufactured Homes.**

**G. Action** relative to:

- ◆ **Set Public Hearing Date** to consider **Planning Department Fee Adjustments.**

**ANNUAL MEETING:** **Planning Commission to meet in Executive Meeting Room, Chesterfield Administration Building.**

**A. Election of Officers for 2003:**

- Chairman
- Vice Chairman

Mr. Litton stated the first order of business would be the election of officers for the positions of Chairman and Vice-Chairman to the Planning Commission for 2003.

Mr. Stack nominated Mr. Daniel A. Gecker for Chairman of the Planning Commission.

Mr. Litton seconded the nomination.

There were no other nominations; therefore, it was on motion of Mr. Stack, seconded by Mr. Litton, that the Commission resolved to close the nominations for the office of Chairman of the Planning Commission.

AYES: Messrs. Litton, Gecker, Cunningham, Gulley and Stack.

On motion of Mr. Stack, seconded by Mr. Litton, the Commission resolved to elect Mr. Gecker to serve as Chairman of the Planning Commission until the next annual meeting.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

At this time, Mr. Gecker assumed the Chairmanship.

The floor was opened for nominations for the office of Vice-Chairman to the Planning Commission for 2003.

Mr. Stack nominated Mr. Sherman W. Litton for Vice-Chairman to the Planning Commission.

Mr. Cunningham seconded the nomination.

There were no other nominations; therefore, it was on motion of Mr. Stack, seconded by Mr. Cunningham, that the Commission resolved to close the nominations for the office of Vice-Chairman of the Planning Commission.

AYES: Messrs. Gecker, Cunningham, Gulley, Litton and Stack.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to elect Mr. Litton to serve as Vice-Chairman of the Planning Commission until the next annual meeting.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

At this time, Mr. Litton assumed the Vice-Chairmanship.

**B. ADOPTION OF PLANNING COMMISSION MEETING DATES FOR 2003.**

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission resolved to adopt the following meeting dates for the year 2003:

February 18, 2003  
\*\*February 20, 2003

August 19, 2003  
\*\*August 21, 2003

March 18, 2003  
\*\*March 20, 2003

September 16, 2003  
\*\*September 18, 2003

April 15, 2003  
\*\*April 17, 2003

October 21, 2003  
\*\*October 23, 2003

May 20, 2003  
\*\*May 22, 2003

November 18, 2003  
\*\*November 20, 2003

June 17, 2003  
\*\*June 19, 2003

December 16, 2003  
\*\*December 18, 2003

July 15, 2003  
\*\*July 17, 2003

**January 20, 2004 (Annual Meeting)**  
\*\*January 22, 2004

\*\* Dates for 2nd monthly meeting, if backlog exists.

**REGULARLY SCHEDULED MEETING:**

**Planning Commission** to meet in **Executive Meeting Room, Chesterfield Administration Building.**

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

On motion of Mr. Cunningham, seconded by Mr. Gulley, the Commission amended the agenda to reorder Item E., Consideration of an Administrative Substantial Accord Determination for Case 03PD0222, River Oaks Development Co. LLC (Piney Branch Pump Station), as Item B.; added a new Item C., Revisit Proposed FY04 Planning Department Major Projects to replace recommended Open Space Plan with Chester Village Plan; and reordered the remainder of the agenda accordingly.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**B. Consideration of the following Administrative Substantial Accord Determination:**

<b><u>CASE AND DISTRICT</u></b>	<b><u>APPLICANT</u></b>	<b><u>REQUEST</u></b>	<b><u>PROJECT NAME</u></b>
03PD0222 Bermuda	River Oaks Development Co. LLC	Substantial Accord Determination	Piney Branch Pump Station

On motion of Mr. Cunningham, seconded by Mr. Litton, the Commission confirmed the decision of the Director of Planning that the proposed public facility meets the requirements outlined in Part 4 of the County's Substantial Accord Policy.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**C. REVIEW DAY'S AGENDA.**

Mr. Jacobson updated the Commission as to the status of, and staff's recommendation for, the requests to be considered during the Afternoon Session.

Ms. Rogers updated the Commission as to the status of, and staff's recommendation for, the upcoming caseloads and the zoning requests to be considered during the Evening Session.

Mr. Poole updated the Commission as to the status of, and staff's recommendation for, the proposed Minor Ordinance Amendment relating to motor vehicles sales, service and repair in C-3 Districts to be considered during the Evening Session.

The Commission agreed to defer discussion of the public hearing to declare 8611 Sunview Lane, Chesterfield County, VA as blighted property until Mr. Witt, Assistant Director of Building Inspections Department, arrived.

**D. PLANS AND INFORMATION SECTION PROJECTS UPDATE.**

Ms. Fassett and Mr. Bowling updated the Commission as to the status of, and staff's recommendations to schedule potential work sessions and/or public hearings in April and/or May 2003, relative to several draft Plans (Public Facilities Plan, Matoaca Village Plan and the Western Route 360 Corridor Plan).

**C. REVIEW DAY'S AGENDA (continued).**

Upon his arrival, Mr. Witt updated the Commission as to the status of, and staff's recommendation for, declaring 8611 Sunview Lane, Chesterfield County, VA as blighted property.

**E. WORK PROGRAM.**

Upon conclusion of discussion relative to the FY04 Planning Department Major Projects, the Commission resolved to revise the list of projects originally recommended by the Commission at their December meeting. and it was on motion by Mr. Cunningham, seconded by Mr. Litton, that the Commission recommended to the Board of Supervisors the following projects be added to the Planning Department FY03-04 work program:

1. **Northern Area Plan Update:** Development plan for the Northern area of the County east of Midlothian Village from the Richmond City line to Route 360. This updated plan would incorporate eight area plans adopted between 1983 and 1998.
2. **Chester Village Plan:** Update of the 1989 plan, including a review of infill development potential. It is anticipated that the planning process will include an analysis of design related issues and the preparation of implementing ordinances. \*
3. **Residential Ordinance Re-Write:** Review and evaluate the residential sections of the Zoning Ordinance. Create new residential zoning districts to accommodate alternative housing types.

AYES: Messrs. Gecker, Litton, Cunningham and Stack.

NAY: Mr. Gulley.

Upon conclusion of discussion relative to the Commission's Work Program, it was the consensus of the Commission to adopt their February 2003 Work Program, as outlined by Mr. Jacobson.

**F. DISCUSSION RELATIVE TO:**

◆ **REVIEW OF COMMERCIAL AND INDUSTRIAL USES PROJECT.**

Upon conclusion of the discussion, it was on motion of Mr. Cunningham, seconded by Mr. Litton, that the Commission directed staff to evaluate existing zoning in conjunction with future Plan Amendments and instructed staff to evaluate a possible Ordinance Amendment relative to non-conforming uses.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **FIRE EMERGENCY ACCESS POLICY.**

At Mr. Turner's request, it was the consensus of the Commission to defer consideration of the Fire Emergency Access Policy to the April 15, 2003, Planning Commission work session.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

♦ **UPDATE RELATING TO GENERAL ASSEMBLY ACTIONS CONCERNING MANUFACTURED HOMES.**

Upon conclusion of the discussion, it was the consensus of the Commission to set the date of March 18, 2003, for a public hearing to consider a General Assembly Mandated Ordinance Amendment relative to the Manufactured Home Park Ordinance.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**G. Action relative to:**

♦ **Set Public Hearing Date to consider Planning Department Fee Adjustments.**

The Commission, at their December 17, 2002, regularly scheduled meeting took action to schedule a public hearing date on February 18, 2003, to consider Planning Department Fee Adjustments; therefore, no action was necessary at this time.

**H. ADJOURNMENT.**

At approximately 2:55 p. m., the Commission adjourned the Work Session and proceeded to the Public Meeting Room for the 3:00 p. m. Afternoon Session.

**3:00 P. M. AFTERNOON SESSION**

Mr. Gecker announced that, In accordance with the Commission's By-Laws, the annual meeting for the election of officers (Chairman and Vice Chairman) was held earlier in the day at the Work Session, noting that he and Mr. Litton were elected Chairman and Vice Chairman, respectively, to serve until the annual meeting in 2004. He called the Afternoon Session to order at approximately 3:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building.

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**B. APPROVAL OF PLANNING COMMISSION MINUTES:**

Mr. Jacobson stated that the first order of business would be the consideration of the December 17, 2002, Planning Commission minutes.

On motion of Mr. Litton, seconded by Mr. Stack, the Commission resolved to approve the December 17, 2002, Planning Commission minutes, as written.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**C. CONSIDERATION OF THE FOLLOWING REQUESTS:**

◆ **WITHDRAWALS.**

**03PW0206:** In Clover Hill Magisterial District, **GOOD NEWS FREEWILL BAPTIST CHURCH** requested withdrawal of Planning Commission approval of a development standards waiver to Section 19-514(d)(1) that requires paving and curb and gutter for a parking lot. This project is commonly known as **GOOD NEWS FREEWILL BAPTIST CHURCH**. This request lies in an Agricultural (A) District on a 4.5 acre parcel fronting approximately 200 feet on the west line of Courthouse Road, also lying approximately 390 feet north of the intersection of Qualla and Courthouse Roads. Tax ID 748-679-0519 (Sheet 16).

Mr. Jacobson indicated the applicant had submitted correspondence to withdraw the request.

No one came forward to represent the request.

There was no opposition present

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission acknowledged withdrawal of a request for a development standards waiver to Section 19-514(d)(1) requiring paving and curb and gutter for a parking lot for Case 03PW0206, Good News Freewill Baptist Church (Good News Freewill Baptist Church).

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**02TS0258:** In Matoaca Magisterial District, **WILSON PROPERTIES OF VA, LLC** requested withdrawal of Planning Commission approval of a tentative subdivision plat with approximately ninety (90) lots that requires an exception to Section 17-76(h) of the Subdivision Ordinance regarding second street access requirements for lots in excess of fifty (50). This development is commonly known as **BAILEY'S GROVE**. This request lies in Residential (R-7 and R-12) Districts on two (2) parcels totaling 44.94 acres, lying generally north of McCormick Woods Subdivision. Tax IDs 783-611-2933 and 783-612-2049 (Sheet 45).

Mr. Jacobson stated staff had received a request from the applicant to withdraw the request.

There was no opposition present

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission acknowledged withdrawal of a request for a tentative subdivision plat with approximately ninety (90) lots that requires an exception to Section 17-76(h) of the Subdivision Ordinance regarding second street access requirements for lots in excess of fifty (50) for Case 02TS0258, Wilson Properties of VA, LLC (Bailey's Grove).

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**D. FIELD TRIP AND DINNER.**

◆ **FIELD TRIP SITE SELECTION:**



On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission set their Field Trip Agenda to visit the request site relative to Case 02SN0259 (Amended), Swift Creek Partners, LLC.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **DINNER LOCATION:**

On motion of Mr. Litton, seconded by Mr. Stack, the Commission resolved to meet for dinner at Sundays Waterfront Restaurant.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**E. ADJOURNMENT.**

At approximately 3:12 p. m., the Commission adjourned the 3:00 p. m. Afternoon Session and agreed to reconvene at 4:00 p. m. in the Executive Session Meeting Room to depart on their Field Trip and then to dinner.

Reconvening:

At approximately 4:00 p. m., Messrs. Gecker, Litton Cunningham, Gulley, Stack and staff departed the Executive Meeting Room for their Field Trip visit and then dinner at Sundays Waterfront Restaurant.

During dinner, there was discussion pertaining to the request site visited on the Field Trip.

**7:00 P. M. EVENING SESSION**

At approximately 7:00 p. m., Mr. Gecker, Chairman, called the Evening Session to order. He announced that, In accordance with the Commission's By-Laws, the annual meeting for the election of officers (Chairman and Vice Chairman) was held earlier in the day at the Work Session, noting that he and Mr. Litton were elected Chairman and Vice Chairman, respectively, to serve until the annual meeting in 2004

**A. INVOCATION.**

Mr. Litton presented the invocation.

**B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.**

Officer Rhodes, Chesterfield County Police Department, led the Pledge of Allegiance to the Flag.

**C. REVIEW MEETING PROCEDURES.**

Mr. Jacobson apprised the Commission of the agenda for the next two (2) months. He stated that the February 8, 2003, agenda was comprised of eight (8) cases and the March 18, 2003, agenda had a total of fourteen (14) cases.

**D. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

On motion of Mr. Litton, seconded by Mr. Stack, the Commission amended the agenda to reorder Item XI, Rezoning and Conditional Uses – Other (Cases 02SN0236 (Amended), Harbourside Centre LLC and 03SN0157, Norman Sadler) as Item X and reordered the remaining agenda accordingly.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**E. PUBLIC HEARING TO DECLARE 8611 SUNVIEW LANE, CHESTERFIELD COUNTY, VA AS BLIGHTED PROPERTY.**

◆ ◆ ◆

Pursuant to the Code of Chesterfield County, Section 5-7.4(d), a public hearing will be held by the Chesterfield County Planning Commission at 7:00 p. m., on Tuesday, January 21, 2003, in the County's Public Meeting Room, at 9901 Lori Road, regarding the referenced fire-damaged, vacant dwelling.

◆ ◆ ◆

Mr. Witt presented an overview of the request and staff's recommendation.

Mr. Litton opened the discussion for public comment.

Messrs. William Boger and Greg Abbott, residents of Sunview Court and Sunview Lane, respectively, supported the recommendation, noting that the dwelling on the property was fire-damaged, had been vacant for approximately two and one-half (2½) years, was unattractive and a safety hazard; and that the attorney and/or other individuals representing the property owner's estate had been unresponsive to the County to cure the blight or present a reasonable plan to do so as well as private individuals interested in purchasing the property.

There being no one else to speak, Mr. Litton closed the public comment.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission determined, in accordance with the Blight Ordinance, that the property located at 8611 Sunview Lane, Chesterfield County, Virginia, in its current condition, was blighted and recommended to the Board of Supervisors that the appropriate remedy to address the blight was demolition.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**F. CONSIDERATION OF THE FOLLOWING REQUESTS:**  
**◆ REQUEST FOR DEFERRAL BY APPLICANT.**

**02SN0238:** In Matoaca Magisterial District, **DOUGLAS R. SOWERS** requested deferral to March 18, 2003, of consideration for amendment to Conditional Use Planned Development (Case 88S008) and amendment of zoning district map on part of property which is commonly known as Greenspring's A. E. Howard tract. Specifically, the applicant desires to develop this 136.3 acre tract as a single development from the originally-zoned 1,312.7 acre tract. In general, amendments are requested relative to the approved Master Plan, historic structures, provision of a golf course, road improvements, land dedications and reservations, utilities, drainage, erosion and water quality. A mixed use development consisting of residential, office and commercial uses is

planned. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use and single family residential use of 2.0 units per acre or less. This request lies in Residential (R-9) and Corporate Office (O-2) Districts on 136.3 acres fronting approximately 1,200 feet on the east line of Otterdale Road, approximately 2,900 feet south of Gamecock Road. Tax ID 718-691-6889 (Sheet 9).

Mr. John Easter, the applicant's representative, requested deferral to the March 18, 2003, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to defer Case 02SN0238 to the March 18, 2003, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT.**

**03SN0155:** In Clover Hill Magisterial District, **TRIAD INVESTMENTS LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for medium density residential use of 1.51 to 4.0 units per acre. This request lies on 9.3 acres fronting approximately 800 feet on the west line of Twilight Lane, approximately 250 feet south of Debbs Lane. Tax ID 757-697-6279 (Sheets 7 and 11).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation, including the Addendum.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 03SN0155 and acceptance of the following proffered conditions, including the Addendum:

**PROFFERED CONDITIONS**

1. Public water and wastewater shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of building permit:
  - A. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or
  - B. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is

made if paid after June 30, 2003.

- C. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
3. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
  4. All dwelling units shall have a minimum gross floor area of 1800 square feet. (P)
  5. All exposed portions of the foundation of each dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (P)
  6. A fifteen (15) foot tree preservation strip, exclusive of required yards, shall be maintained along the northern property line adjacent to GPIN 757-698-9176. Utility easements shall be permitted to cross this strip in a perpendicular fashion. Any healthy trees that are six (6) inches in caliper or greater shall be retained within this tree preservation strip except where removal is necessary to accommodate the improvements permitted by the preceding sentence. This condition shall not preclude the removal of vegetation from the tree preservation strip that is unhealthy, dying or diseased. (P)
  7. Any open basins required for water quantity or quality control shall be designed as wet ponds and shall be landscaped or otherwise improved so that the facilities become visual enhancements to, and amenities for, the uses developed on the Property. The landscaping plan for such ponds shall include landscaping adjacent to the ponds. At the time of tentative subdivision submission, plans depicting these requirements shall be submitted to the Planning and Environmental Engineering Departments for review and approval. (EE)
  8. No clearing east of the existing gravel road, within the existing Twilight Lane right of way, shall be permitted in conjunction with the development of the subject property. The location of the existing gravel road is identified on the "Zoning Exhibit", prepared by Balzer & Associates Inc. and dated January 13, 2003. Furthermore, prior to recordation of any subdivision plat, a single row of evergreen trees (Bayberry or similar species subject to Planning Department approval) three (3) to four (4) feet in height shall be planted, approximately ten (10) feet on center, along the rear property lines of Tax ID's 757-697-8988 and 9297 for that length necessary to minimize the impact of the Twilight Lane improvements. The exact location of such landscaping shall be approved by the Planning Department. (P)

(Staff Note: Once the required landscaping is installed, this condition shall be satisfied. Failure of the individual property owners of the referenced lots to maintain the landscaping shall not be considered a violation of this condition.)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**03SN0175:** In Dale Magisterial District, **DONNA ASKEW HOWARD** requested Conditional Use and amendment of zoning district map to permit a family daycare home in a Residential (R-12) District. The density

of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1 to 2.5 units per acre. This request lies on 0.4 acre and is known as 4318 Jacobs Bend Terrace. Tax ID 758-685-1030 (Sheet 11).

Ms. Donna Howard, the applicant, accepted staff's recommendation.

There was opposition present; therefore, it was the consensus of the Commission to place Case 03SN0175 with those cases requiring discussion.

**03SN0190:** In Dale Magisterial District, **BONNIE E. PRIDGEN** requested Conditional Use and amendment of zoning district map to permit a family daycare home in a Residential (R-7) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1 to 2.5 units per acre. This request lies on 0.5 acre and is known as 9709 Bearbox Court. Tax ID 783-667-0335 (Sheet 18).

Ms. Bonnie Pridgen, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 03SN0190, subject to the following conditions:

#### CONDITIONS

1. This Conditional Use shall be granted to and for Bonnie E. Pridgen exclusively, and shall not be transferable nor run with the land. (P)
2. There shall be no exterior additions or alterations to the existing structure to accommodate this use. (P)
3. There shall be no signs permitted to identify this use. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**03SN0191:** In Matoaca Magisterial District, **DOUGLAS R. SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2 units per acre or less. This request lies on 33.5 acres fronting approximately 850 feet on the west line of Otterdale Road, approximately 5,000 feet north of Genito Road. Tax ID 714-692-7432 (Sheet 9).

Mr. Oliver D. "Skitch" Rudy, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

In response to questions from Mr. Cunningham, Ms. Bailey-Owens addressed school capacity issues, noting the proposed development would not significantly impact area school capacities.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 03SN0191 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

The Owners-Applicants in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the property known as Chesterfield County Tax ID 714- 692-7432-00000 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-12 is granted. In the event the request is denied or approved with conditions not agreed to by the Owners-Applicants, these proffers and conditions shall be immediately null and void and of no further force or effect.

1. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
2. The public water and wastewater systems shall be used. (U)
3. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit for infrastructure improvements within the service district for the property:
  - A. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or
  - B. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.
  - C. In the event the cash payment is not used for uses for which proffered within 15 years of receipt, the cash shall be returned fully to the payor. (B & M)
4. Density. The total number of single family residential units shall not exceed two (2) single family residential units per acre. (P)
5. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way along the west side of Otterdale Road, measured from the centerline of that part of Otterdale Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
6. Direct access to Otterdale Road shall be limited to one (1) public road. The exact location of

this access shall be approved by the Transportation Department. (T)

7. To provide an adequate roadway system, the developer shall be responsible for the following improvements:
  - a. Construction of additional pavement along Otterdale Road at the approved access to provided left and right turn lanes, if warranted, based on Transportation Department standards.
  - b. Widening/improving the west side of Otterdale Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with modifications approved by the Transportation Department, for the entire property frontage.
  - c. Dedication to and for the benefit of Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above.  
(T)
8. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 7, shall be submitted to and approved by the Transportation Department. (T)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**03SN0192:** In Dale Magisterial District, **BALZER & ASSOC. INC.** requested amendment to zoning (Case 97SN0269) and amendment of zoning district map relative to a tree preservation strip. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1 to 2.5 units per acre. This request lies in a Residential (R-9) District on 0.3 acre and is known as 9654 Lockberry Ridge Loop. Tax ID 779-665-6491 (Sheet 26).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 03SN0192 and acceptance of the following proffered condition:

#### PROFFERED CONDITION

A twenty-two (22) foot tree preservation strip shall be maintained along the southern property line adjacent to the existing residential lots within Salem Woods, Section "E". All trees eight (8) inches in caliper or greater shall be retained except that dead, diseased or dying trees eight (8) inches or greater in caliper may be removed. This tree preservation area shall be exclusive of easements. For lots adjacent to existing residential lots within Salem Woods, Section "E", a minimum rear yard setback of 25 feet (R-12 standard) shall be provided exclusive of the tree preservation strip. (P)

(Staff Note: This proffered condition supersedes Proffered Condition 15 of Case 97SN0269 for the request property only.)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**03SN0193:** In Dale Magisterial District, **ECOPOWER L.L.C.** requested rezoning and amendment of zoning district map from General Business (C-5) to Agricultural (A) of 19.4 acres with Conditional Use to permit General Business (C-5) uses and a power generation facility on this property and an adjacent 7.9 acre tract currently zoned Agricultural (A). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general industrial use. This request lies in Agricultural (A) and General Business (C-5) Districts on a total of 27.3 acres fronting approximately 90 feet on the west line of Iron Bridge Road, approximately 700 feet south of Ironbridge Parkway. Tax ID 773-648-Part of 0618 (Sheet 25).

Mr. Brennen Keene, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

In response to questions from Mr. Gulley, Mr. Keene indicated that neither the applicant nor the request were associated with other similar power generation businesses in the County.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 03SN0193 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

The Owner and the Applicant (the "Applicant") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the 27.31 parcel (the "Property") that is a part of the property known as GPIN County GPIN/Tax Identification Number 773-648-0618 (Part of) under consideration will be developed according to the following conditions if, and only if, the rezoning from C-5 to A and the requested conditional use permits are granted. In the event the request is denied or approved with conditions not agreed to by the Applicant, the proffers and conditions shall immediately be null and void and of no further force or effect.

1. The plan entitled "Preliminary Sketch Plan: EcoPower, L.L.C. Project, Quarry Road, Chesterfield County, Virginia" dated November 7, 2002 and prepared by Resource International, LTD. (the "Plan") shall govern the location of uses permitted under the conditional use permits applicable to this request. (P)
2. All of the Property (Tract 1 plus Tract 2, as shown on the Plan) shall be permitted to be used for the construction, maintenance and operation of a power generation facility (the Facility). In addition, Tract 1 (and only Tract 1) may be used for any uses permitted by right or with restrictions in the C-5 zoning district. (P)
3. Any C-5 use developed on Tract 1 shall be subject to the "Emerging Growth Area"



development standards required in sections 19-591 to 19-598 of the Chesterfield County Code. (P)

4. Public water and wastewater systems shall used in conjunction with the Facility and the C-5 uses permitted on the Property. (U)
5. Views of the Facility shall be minimized from public rights of way. At the time of site plan review, the Applicant shall submit a plan to the Planning Department showing how views of the Facility are to be minimized from public rights of way (the "View Minimization Plan"). The View Minimization Plan shall identify different methods of minimizing views, including, but not limited to, preservation of existing vegetation on the Property, the installation of berms, and/or additional plantings, as approved by the Planning Department. In addition, buildings or other structures in existence at the time the View Minimization Plan is submitted may be used as part of such plan for minimizing views of the Facility. Any method approved as part of the View Minimization Plan may be later deleted or altered at the time of construction of a structure or structures on GPIN 773-648-0618 (which includes the Property), if such structure or structures continue to minimize views of the Facility from public rights of way, as determined by the Planning Department. (P)
6. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
7. Prior to any final site plan approval for the Facility or for any C-5 use permitted on the Property, one hundred (100) feet of right-of-way on the west side of Iron Bridge Road (Route 10), as measured from the centerline of that part of Route 10 immediately adjacent to the Property where the Property fronts on Route 10, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**02SN0259:** (Amended) In Matoaca Magisterial District, **SWIFT CREEK PARTNERS, LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) on 234.7 acres with Conditional Use to allow private recreational facilities on 9.0 acres of the 234.7 acres. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request fronts approximately 1,600 feet on the north line of Otterdale Road, approximately 2,100 feet east of Woolridge Road and located at the western terminus of Fox Club Parkway. Tax IDs 712-672-Part of 4372, 713-673-Part of 4247 and 713-675-1759 (Sheet 15).

In response to Mr. Jacobson's comment, approximately 100 individuals stood to indicate they were present in opposition to Case 02SN0259, Swift Creek Partners, LLC.

Since there was opposition present; it was, therefore, the consensus of the Commission to place Case 02SN0259 with those cases requiring discussion.

**03SN0158:** In Matoaca Magisterial District, **STOCKTON MEMORIAL BAPTIST CHURCH** requested Conditional Use and amendment of zoning district map to permit a private school and daycare in a Residential (R-15) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0 to 2.5 units per acre. This request lies on 9.8 acres and is known as 5100 and 5120 Claypoint Road. Tax ID 741-676-6101-00001 and 00002 (Sheet 16).

Ms. Sheila Jefferson, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 03SN0158, subject to the following conditions and acceptance of the following proffered condition:

#### CONDITIONS

1. Except where the requirements of the underlying Residential (R-15) zoning are more restrictive, any new development for school or child care use shall conform to the requirements of the Zoning Ordinance for commercial uses in Emerging Growth Areas, excluding buffer requirements. (P)
2. The following setback criteria shall apply to any outdoor play fields, courts, swimming pools and similar active recreational areas:
  - a. With the exception of playground areas which accommodate swings, jungle gyms or similar such facilities, all active play fields, courts or similar active recreational facilities which could accommodate organized sports such as football, soccer, basketball, etc., shall be located a minimum of 100 feet from adjacent R District properties to the east and south (Swift Creek Crossing Subdivision). Within this setback, existing vegetation shall be supplemented, where necessary, with landscaping or other devices designed to achieve the buffering standards contained in Section 19-522(a)(2) of the Zoning Ordinance.
  - b. If new outdoor play fields, courts, swimming pools and similar active recreational areas are set back more than 100 feet from adjacent R District properties to the east and south (Swift Creek Crossing Subdivision), the landscaping or other design features described in Condition 2.a. may be modified by the Planning Department at the time of site plan review. Such modification shall accomplish a mitigation of the visual and noise impacts that sports or related activities have on adjacent properties equivalent to the 100 foot setback/landscaping requirements described in Condition 2.a.
  - c. Any playground areas shall be setback a minimum of forty (40) feet from all property lines. (P)

3. Any child care center shall be conducted in association with church or other places of worship use on the property. (P)

#### PROFFERED CONDITION

Prior to enrollment of more than a cumulative total of forty-five (45) day care and school students, additional pavement shall be constructed along Claypoint Road at the existing access to provide a right turn lane. The developer shall dedicate to and for the benefit of Chesterfield County, free and unrestricted, any additional right of way (or easements) required for this road improvement. (T)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

#### ◆ REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.

**02SN0236:** (Amended) In Matoaca Magisterial District, **HARBOURSIDE CENTRE LLC** requested amendment to Conditional Use Planned Development (Case 88SN0056) and amendment of zoning district map relative to approved Master Plan, uses, site design, buffers and drainage. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor use. This request lies in Neighborhood Business (C-2) and Corporate Office (O-2) Districts on 8.4 acres fronting approximately 470 feet on the south line of Hull Street Road, also fronting approximately 200 feet on the west line of Mockingbird Lane, also fronting in two (2) places approximately 240 feet on the west line of Harbourside Drive and located at the intersection of these roads. Tax ID 730-673-1465, 2097, 2291 and 4078 (Sheets 15 and 16).

Ms. Peterson presented an overview of the request and staff's recommendation for denial of Request I to amend Conditional Use Planned Development (Case 88SN0056) relative to uses (Condition 11) and gross floor area for projects (Conditions 13 and 14) and approval of Request II to amend Conditional Use Planned Development (Case 88SN0056) to delete Condition 9 restricting the clearing and grading on slopes greater than fifteen (15) percent, to amend Condition 3 to exclude the location of retention ponds within required buffers and to amend Condition 1 relative to compliance with the approved Master Plan which limits use of the property located at the intersection of Hull Street Road and Mockingbird Lane to a bank.

Mr. John Easter, the applicant's representative, did not accept staff's recommendation, noting the request was significantly different from the previous time it was before the Commission for consideration. He addressed issues of concern and pointed out areas of improvement, indicating he felt the Comprehensive Plan would support a commercial use at Mockingbird Lane and Hull Street Road and that the proposed modified uses were compatible with area residential uses. He further noted the copy of the proposed Master Plan, attached to the "Request Analysis," had been erroneously attached and asked that it be deleted so as to not be considered part of the record.

Mr. Gecker opened the discussion for public comment.

Mr. Tom Cole, Ms. Myrna McCaffrey, Ms. Valerie Swope, Ms. Angela Lanham and Ms. Suzette Elliott, area residents, voiced support for the request, noting that the additional commercial uses would not adversely

impact the neighborhood; that excluding retention ponds from the buffer was appropriate; and that flexibility in uses would encourage development that should compliment the Hull Street Road Corridor.

In response to questions from the Commission, staff addressed concerns relative to public utility services, transportation, access and signage.

There being no one else to speak, Mr. Gecker closed the public comment.

Mr. Stack noted he originally had not supported the request because he felt the uses proposed at that time were inappropriate for the subject property. He stated; however, the request currently before the Commission was much improved from the previous version and he was satisfied to the point he felt he could now support the request.

On motion of Mr. Stack, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 02SN0236, subject to the following conditions and acceptance of the following proffered conditions:

### CONDITIONS

1. In conjunction with the approval of this request, Condition 9 of Case 88SN0056 shall be deleted for the request property only. (EE)
2. Retention ponds shall not be permitted within any buffers required by Condition 3 of Case 88SN0056. (P)
3. Bank, savings and loan and/or office uses shall be permitted at the intersection of Hull Street Road and Mockingbird Lane.
4. Condition 11 of Case # 88SN0056 shall be modified to allow the following uses, in addition to those already permitted:

Appliance store  
Bicycle sales and rental  
Clothing store  
Furniture/carpet store  
Hobby store  
Jewelry store  
Locksmith operations  
Optometrist  
Paint and wallpaper store  
Photography studio

Restaurant, fast-food, provided that such use shall be limited to:

- one such restaurant at which frozen desserts and beverages such as ice cream, frozen yogurt, and milk shakes shall constitute at least  $\frac{3}{4}$  of the available items on the menu; and
- one such restaurant at which delicatessen products such as sandwiches (other than hamburgers and cheeseburgers), soups, salads, and beverages shall constitute at least  $\frac{3}{4}$  of the available items on the menu, provided that seating shall be provided so

that such food items may be consumed at the restaurant.  
Sewing machine and vacuum sales/service  
Sporting goods sales  
Toy store  
Travel Agency (P)

5. Condition 13 of Case # 88SN0056 shall be modified in its entirety by the following:

Within the Neighborhood Business (C-2) Tract, individual stores and shops shall not exceed 5,000 square feet of gross floor area if located within 200 feet of any existing residential district or area currently zoned agricultural and shown on the General Plan for residential use, and in no case shall be larger than 8,000 square feet of gross floor area. Individual projects shall not exceed 5,000 square feet of gross floor area per acre unless such excess square footage is devoted solely for office and/or storage use and is subtracted from the square footage permitted in the O-2 Tract. Even buildings that are more than 200 feet from any property that is zoned residential and is being used for residential purposes shall not exceed a height of 2 stories or 35 feet, whichever is less. All structures shall have an architectural style compatible with surrounding residential neighborhoods. (P)

6. Condition 14 of Case # 88SN0056 is amended to provide that the allowable square footage thereunder shall be reduced consistent with the application of the provisions of Condition 13. (P)

- (NOTES:
- A. Condition 2 modifies Condition 3 of Case 88SN0056 for the request property only.
  - B. Conditions 3 and 9 of Case 88SN0056 remains for that part of the property which was the subject of the original Conditional Use Planned Development not included in this application. All other conditions of Case 88SN0056 remain applicable.
  - C. Condition 3 modifies Condition 1 of Case 88SN0056 for the request property only.)

#### PROFFERED CONDITIONS

1. Any open basins required for water quantity or quality which are designed as wet ponds shall be landscaped or otherwise improved so that the facilities become visual enhancements to, and amenities for, the uses developed on the Property. At the time of site plan submission, a plan depicting these requirements shall be submitted for review and approval. (P)
2. Freestanding parking lot lights shall not exceed twenty (20) feet in height. (P)
3. Evergreen shrubs of at least two (2) feet in height at the time of planting and spaced to create a continuous hedgerow at maturity shall be provided along Route 360 and Mockingbird Lane

where adjacent to parking. These shrubs shall be in addition to the perimeter landscaping requirement in the zoning ordinance. (P)

4. An underground automatic irrigation system shall be provided for the landscaping along U.S. Route 360 and Mockingbird Lane. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**03SN0157:** In Matoaca Magisterial District, **NORMAN SADLER** requested rezoning and amendment of zoning district map from Agricultural (A) to General Business (C-5) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for rural conservation use. This request lies on 0.2 acre fronting approximately 20 feet on the south line of Hull Street Road, approximately 950 feet west of Doss Road. Tax ID 699-665-2344 (Sheet 22).

Ms. Rogers presented an overview of the request and staff's recommendation of denial, noting that the proposed zoning and land uses did not comply with the Southern and Western Area Plan; were not compatible with existing and anticipated area development; lacked the typical design criteria associated with commercial uses in Emerging Growth Areas, such as adequate landscaping setbacks and paving; and, the proposal, as submitted, represented over development of the site.

Mr. Norman Sadler, the applicant, did not accept staff's recommendation, noting he had operated his business on the subject property for approximately twenty (20) years with no problems.

No one came forward to speak in favor of, or in opposition to, the request.

Mr. Stack indicated that the proposed zoning constituted very small acreage; that the business had existed for a number of years with no apparent adverse impact on the area; and he felt approval was appropriate.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 03SN0157 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

1. Prior to any final site plan approval, 100 feet of right-of-way on the south side of Hull Street Road (Route 360), measured from the centerline of that part of Route 360 immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
2. No direct access shall be provided from the property to Route 360. (T)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

#### **XI. CODE AMENDMENTS.**

- ◆ **NOTIFICATION FOR CERTAIN ZONING TEXT AMENDMENTS AND ADJACENT LOCALITIES.**



An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Section 19-26 relating to Planning Department advertisements. This amendment will add notification requirements for certain Zoning Ordinance text amendments and modify requirements for notifying adjacent localities per the Code of Virginia.



Mr. Poole presented an overview of the proposed Code Amendment and staff's recommendation.

There being no one to come forward to speak in favor of, or in opposition to, the proposed Amendment, the public hearing was closed.

On motion of Mr. Cunningham, seconded by Mr. Gulley, the Commission resolved to recommend approval of the following Code Amendment:

(1) *That Section 19-26 of the Code of the County of Chesterfield, 1997, as amended, is amended and re-enacted to read as follows:*

**Sec. 19-26. Hearings; notification and posting of property.**

(a) The adoption of any comprehensive plan, zoning district map or ordinance or amendment thereto; any request for zoning approval; appeal of a decision by the planning director or other administrative officer to the board of zoning appeals; application for interpretation of the district map to the board of zoning appeals; or application for creation of a historic district, or the designation of landmark and landmark sites shall be advertised by reference, giving a descriptive summary of the proposed action and the place or places within the county where copies of the proposed action may be examined. In the case of proposed action which involves an amendment to the zoning district map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density, if any, set forth in the applicable part of the comprehensive plan. None of the above-referenced actions shall be acted upon until notice of the intention to do so has been published once a week for two successive weeks in a newspaper published or having general circulation in the county. Such notices shall specify the time and place of hearing at which persons affected may appear and present their views, and such hearing shall be held not less than five days nor more than 21 days after final publication.

(b) The director of planning shall, at least 21 days before the date of the first hearing on any request for zoning, or appeal of a decision by the planning director or other administrative officer to the board of zoning appeals, post on the land or building involved in any application or appeal, a notice of the public hearing as follows:

- (1) The notice shall be posted at reasonable intervals along streets abutting the subject property, or, if there is no abutting street, then at the proposed public street entrance to the property. The notice shall be posted in locations so as to be reasonably visible from public roads.

(2) Neither the holding of any public hearing, nor the validity of any action on an application or an appeal, shall be affected by the unauthorized removal of a notice which has been duly posted in accordance with this section.

(c) (1) With regard to any action referred to in subsection (a) above, except amendments to the comprehensive plan, the owner of the affected parcel, as identified in the assessor's records, and the property owners identified in section 19-24(c) shall be given not less than 15 days' written notice sent by registered, certified or first class mail for any hearing on any such action. If the written notice is provided by first class mail, the director of planning shall make affidavit that the mailings have been made and file the affidavit with the papers in the case. If the public hearing is continued or deferred to a date that has not previously been advertised, notice shall be remailed. If the public hearing is continued or deferred to a date that has been previously advertised or if the public hearing is closed and the decision deferred to a later date, notice need not be remailed.

(2) With regard to any action involving a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of more than twenty-five parcels of land, the owner of the affected parcels, as identified in the assessor's records, shall be given not less than 15 days' written notice sent by registered, certified or first class mail for any hearing on any such action. Written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner of lots shown on a subdivision plat approved and recorded pursuant to the provisions of the Chesterfield County Subdivision Ordinance where such lots contain less than 11,500 square feet. If the written notice is provided by first class mail, the director of planning shall make affidavit that the mailings have been made and file the affidavit with the papers in the case. If the public hearing is continued or deferred to a date that has not previously been advertised, notice shall be remailed. If the public hearing is continued or deferred to a date that has been previously advertised or if the public hearing is closed and the decision deferred to a later date, notice need not be remailed.

~~(2)~~(3) With regard to any action referred to in sections 19-16 and 19-17, written notice of any public hearing on an application to amend a zoning condition or rezone property shall be given to the last known representatives of all civic associations on the Civic Association Notice List filed with the planning department operating within the area encompassed by the property which is subject to the original zoning or condition and to all property owners of record with the assessor's office whose property was subject to the original zoning or condition and whose property is located within 1,500 feet of the property which is the subject of the application.

(d) When a proposed comprehensive plan or amendment thereto, a proposed change in zoning district map classification, an application for creation of a historic district or the designation of landmarks and landmark sites or an application for special exception or variance involves any parcel of land located within one-half mile of a boundary of an adjoining county or municipality, then, in addition to the advertising and written notification required above, written notice shall also be given at least ~~45~~ 10 days before the hearing to the chief administrative officer or his designee, of such adjoining county or municipality.



(e) Posting and notification of adjacent property owners, as outlined in this section, shall not be required when:

- (1) The hearing involves an application for zoning approval of 26 or more parcels of land initiated by resolution of the planning commission or board of supervisors; or
- (2) On appeal when the appeal involves 26 or more parcels of land; or
- (3) The hearing involves an appeal concerning no specific property.

(f) A party shall be deemed to have waived the right to challenge the validity of proceedings for which written notice is required if the party does not receive the required written notice, but the party has actual notice of, or actively participates in, the proceedings.

(2) *That this ordinance shall become effective immediately upon adoption.*

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **MOTOR VEHICLE SALES, SERVICE AND REPAIR.**



An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Section 19-159 relating to motor vehicle sales, service and repair. The amendment applies to C-3 and C-4 zoning districts and will require a conditional use for automobile sales in designated Village areas, allow major engine and transmission repair in conjunction with motor vehicle sales with certain restrictions and prohibit commercial vehicle sales.



Mr. Poole presented an overview of the proposed Code Amendment and staff's recommendation for approval.

Mr. Gecker opened the discussion for public comment.

Mr. John Morris, representing Mr. Lee Bassett, a landowner in the Midlothian Village, voiced opposition to the proposed Code Amendment.

Mr. Peppy Jones, a Midlothian Village resident, voiced support for the proposed Code Amendment, noting uses such as automobile service, sales and repair were too intense for, and not conducive to, the character of the Midlothian Village.

There being no one else to speak, Mr. Gecker closed the public comment.

Upon conclusion of a brief discussion, it was on motion of Mr. Litton, seconded by Mr. Cunningham, the Commission resolved to recommend approval of the following Code Amendment:

- (1) *That Section 19-159 of the Code of the County of Chesterfield, 1997, as amended, is amended and re-enacted to read as follows:*

**Sec. 19-159. Uses permitted with certain restrictions**

The following uses shall be permitted in the C-3 District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to the provisions of section 19-13:

o o o

- (f) Motor vehicle sales and rental, excluding commercial vehicles such as buses, tractor-trailer trucks, dump trucks, stake bed trucks, vans where the cargo area cannot be accessed from the driver's seat without exiting the vehicle and/or cab and chassis vehicles; construction equipment and motor vehicle consignment lots, and as accessory to sales and rental, service and repair, to exclude body, ~~major engine and transmission~~ repair, provided that:
- (1) Motor vehicle service and repair is not located in the Chester Village Area as identified in Section 19-606 **as amended from time to time.**
  - (2) All such uses shall be set back a minimum of 100 feet from adjacent R, R-TH, R-MF and O Districts or A Districts that are shown on the comprehensive plan for R, R-TH, R-MF or O use. This setback shall be landscaped according to section 19-522(a)(4) of the Development Standards Manual.
  - (3) Storage yards for vehicles awaiting body repair, painting, auction or wholesale sales shall be screened from view of any adjacent properties on which such yards are not permitted or do not exist, and from external public roads or areas currently zoned agricultural and shown on the comprehensive plan for residential or office use.
  - (4) All garage-type doors shall be oriented away from, or screened from view of, adjacent residential or office zoned properties, external roads or areas currently zoned agricultural and shown on the comprehensive plan for residential or office use.
  - (5) There shall be no elevated display of motor vehicles.
  - (6) All allowed repair activities and storage of new or replaced repair materials shall occur inside the buildings unless screened as required by Section 19-159(h).
  - (7)** Motor vehicle sales is not located in Village Districts as identified in Section 19-606 **as amended from time to time.**

- (2) *That this ordinance shall become effective immediately upon adoption.*

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

**03SN0175:** In Dale Magisterial District, **DONNA ASKEW HOWARD** requested Conditional Use and amendment of zoning district map to permit a family daycare home in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1 to 2.5 units per acre. This request lies on 0.4 acre and is known as 4318 Jacobs Bend Terrace. Tax ID 758-685-1030 (Sheet 11).

Ms. Rogers presented an overview of the request and staff's recommendation.

Ms. Donna Howard, the applicant, accepted staff's recommendation.

Mr. Gecker opened the discussion for public comment.

Ms. Julia Castillo and Mr. Dale Stakes, residents who live south of the intersection of Jacobs Bend Drive and Cindiwood Drive, expressed concerns that the proposed use represents commercial encroachment into a single family residential neighborhood; that the use would increase traffic in the neighborhood; and that approval could set a precedent for other commercial uses in the area.

Mr. Litton indicated that a meeting was held to discuss the proposal with adjacent property owners and no one appeared in opposition. He stated that those who expressed concerns did not live in proximity to the request property and therefore, he did not feel that they would be affected by the use.

There being no one else to speak, Mr. Gecker closed the public comment.

On motion of Mr. Litton, seconded by Mr. Stack, the Commission resolved to recommend approval of Case 03SN0175, subject to the following conditions:

**CONDITIONS**

1. This Conditional Use shall be granted to and for Donna Askew Howard exclusively, and shall not be transferable nor run with the land. (P)
2. There shall be no exterior additions or alterations to the existing structure to accommodate this use. (P)
3. There shall be no signs permitted to identify this use. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

The Commission recessed at approximately 8:37 p. m.

The Commission reconvened at approximately 8:48 p. m.

**02SN0259:** (Amended) In Matoaca Magisterial District, **SWIFT CREEK PARTNERS, LLC** requested

rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) on 234.7 acres with Conditional Use to allow private recreational facilities on 9.0 acres of the 234.7 acres. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request fronts approximately 1,600 feet on the north line of Otterdale Road, approximately 2,100 feet east of Woolridge Road and located at the western terminus of Fox Club Parkway. Tax IDs 712-672-Part of 4372, 713-673-Part of 4247 and 713-675-1759 (Sheet 15).

Ms. Rogers presented an overview of the request and staff's recommendation.

Mr. Jack Wilson, the applicant's representative, presented an overview of the request and accepted staff's recommendation.

Mr. Gecker opened the discussion for public comment.

Mr. Jay Mashaw and Ms. Jodie Felice, representing the Foxcroft Homeowners Association, Foxcroft Task Force and Foxcroft Adjacent Homeowners, presented a PowerPoint presentation and distributed informational materials and petitions in opposition to the proposed request.

Messrs. Tom Pakuar, Phil Yamanski, Frank Dowling, Jerry McCracken, Wayne Bass, John Hughes, Tim Hicks, Chris Demetrius; Ms. Susan Reid-Carr, Ms. Betty Hunter-Clapp and Ms. Marlene Durfee voiced opposition to the request and expressed concerns relative to the lack of sufficient meetings with adjacent property owners; extension of Fox Club Parkway; the increase in traffic through Fox Croft Subdivision as a result and the possibility of cut-through traffic; area road conditions; school capacity; and that the County's estimated averages for number of school children per dwelling unit was lower than the average number generated by homes in this area of the County; lack of sufficient open space; lack of a Master Plan; age of the Upper Swift Creek Plan; and impacts on fire and police response times.

Representatives indicated that the adjacent homeowners had offered an alternative proposal which would prohibit the extension of Fox Club Parkway and provide for 150 feet of common open space adjacent to Foxcroft Subdivision. They indicated that if the Commission and applicant would agree to this proposal, the Foxcroft adjacent homeowners would agree to the withdrawal of proffer relating to minimum lot and house sizes; timing of construction of recreational facilities; improvements to Fox Club Parkway stub road; and construction of a bike bath in Foxcroft Subdivision.

**In rebuttal, Mr. Wilson addressed the concerns previously expressed by members of the Foxcroft Homeowners Association, Foxcroft Task Force and Foxcroft Adjacent Homeowners, noting the proposed zoning and land use conformed to the Upper Swift Creek Plan; was representative of existing and anticipated area development; and that the proffered conditions sufficiently addressed the impacts of this development on necessary capital facilities.**

Mr. Cunningham indicated that he was surprised, given area residents' concerns relative to growth issues such as overcrowding of schools and lack of adequate roads, that the neighborhood would be supportive with proffers which would preclude the extension of Fox Club Parkway and provide for 150 feet of open space adjacent to Foxcroft Subdivision. He also noted that based upon concerns of the Fire Department, the Commission normally encouraged "connectivity" between neighborhoods. He further stated that while the Plan may be somewhat outdated, it was currently the adopted Plan and the proposal conformed to the Plan. He

noted that measures were being taken by the County to protect the water quality of Swift Creek Reservoir.

Mr. Litton noted that the proposal complied with the Plan; that the County had adopted regulations to protect the water quality of the Reservoir; and that the applicants had fully addressed their impact on capital facilities consistent with the County's policy.

Mr. Gulley applauded the neighborhood's thorough presentation. He stated that the Commission was currently studying the manner in which staff calculated permissible densities and whether consideration should be given to subtracting land deemed undevelopable by virtue of steep slopes, wetlands, etc. He stated that, in his opinion, the extension of Fox Club Parkway would encourage cut-through traffic and therefore increase traffic in Foxcroft Subdivision; that connection to neighborhoods could be made by means other than collector roads, such as greenways and bike paths; that there had been an inadequate assessment of the already approved, but unbuilt, development in the area on capital facilities; and that while the County had adopted environmental regulations to minimize the impact of runoff on the Reservoir, there was concern that the timing of the construction of the regional BMPs may not coincide with development and some developments, such as the one proposed, was not planned to drain through a regional BMP. He suggested that deferral of the case may be appropriate to further evaluate these issues.

Mr. Stack indicated that he had received significant input from area residents; that the proposal before the Commission was one that was superior to the original proposal; that many of the issues raised by the Foxcroft Task Force had been addressed through the proffers; that the proposal conformed to the Plan; that road issues needed to be addressed by the County through assessment districts or bond referendums; that redistricting would minimize many of the school overcrowding issues; and that the County had made strides with respect to adoption of environmental regulations.

There being no one else to speak, Mr. Gecker closed the public comment.

In response to questions from the Commission, staff addressed issues and answered questions relative to environmental, transportation and school aspects of the proposed development.

On motion of Mr. Stack, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 02SN0259 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

1. A maximum of 350 lots shall be permitted. (P)
2. The public water and wastewater systems shall be used. (U)
3. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
4. In conjunction with recordation of the initial subdivision plat, a sixty (60) foot wide right-of-way for a residential collector street ("Fox Club Parkway Extended") from Otterdale Road to the

eastern property line shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of this right-of-way shall be approved by the Transportation Department. (T)

5. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way on the east side of Otterdale Road, measured from the centerline of that part of Otterdale Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
6. Direct access from the property to Otterdale Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
7. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
  - a. Construction of additional pavement along Otterdale Road at the public road intersection to provide left and right turn lanes, based on Transportation Department standards;
  - b. Construction of two (2) lanes of Fox Club Parkway Extended as a Residential Collector Street from Otterdale Road to the Eastern Property Line.
  - c. Construction of a three (3) lane typical section (i.e., one (1) eastbound lane and two (2) westbound lanes) for the public road at its intersection with Otterdale Road. The exact length of this improvement shall be approved by the Transportation Department; and
  - d. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. Provided, however, in the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any improvement described in 7(a), the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right of way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right of way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and only be required to provide required road improvements within available right-of-way as determined by the Transportation Department. (T)
8. Prior to any construction plan, a phasing plan for the required road improvements, as identified in Proffered Condition 7, shall be submitted to and approved by the Transportation Department. (T)
9. The exposed surfaces of the foundations of each dwelling shall be covered with brick or stone veneer or exterior insulation and finishing systems (EIFS) materials. (P)
10. All dwellings shall have a minimum gross floor area of 2,500 square feet. (P)

11. A fifty (50) foot buffer required in accordance with the Subdivision Ordinance along Otterdale Road shall be located within recorded open space. A thirty-five (35) foot buffer required in accordance with the Subdivision Ordinance along Fox Club Parkway Extended shall be located within recorded open space. (P)
12. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit for infrastructure improvements within the service district for the property;
  - a. \$7,800 per lot, if paid prior to July 1, 2002; or
  - b. The amount approved by the Board of Supervisors not to exceed \$7800.00 per lot adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2001, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2002; and
  - c. In the event the cash payment is not used for the purpose for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
13. All lots shall have a minimum area of 15,000 square feet. (P)
14. To the extent permitted by the Transportation Department and VDOT, in conjunction with the construction of the internal road network, three (3) traffic islands/circles shall be provided. The exact design and location of these traffic islands/circles shall be approved by the Transportation Department. (T)
15. Recreational Facilities. Any recreational facilities shall be subject to the following restrictions:
  - a) There shall be no outside public address systems or speakers.
  - b) With the exception of playground areas which accommodate swings, jungle gyms, or similar such facilities, all outdoor play fields, courts, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from any proposed or existing single family residential lot line and a minimum of fifty (50) feet from any existing or proposed public road.
  - c) Within the one hundred (100) foot and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
  - d) Any playground areas (i.e., areas accommodating swings, jungle gyms or similar such facilities) shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
  - e) Nothing herein shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
  - f) Exterior lighting for recreational uses shall comply with Section 19-573 of the Zoning

- Ordinance, and the maximum height for light posts shall not exceed twenty (20) feet.
- g) The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
  - h) In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions. (P)
16. A minimum of fifty (50) feet of common open space shall be maintained adjacent to Foxcroft Subdivision. Except for utilities, pedestrian/bicycle paths and roads which run generally perpendicular through the buffer, there shall be no uses permitted in the buffer. Except where necessary to provide the uses stated herein, any healthy trees that are six (6) inches or greater in caliper shall be retained unless removal is approved through the subdivision process. (P)
17. Prior to the recordation of more than 300 lots, at a minimum, the following recreational facilities shall be provided and completed:
- a) A twenty-five (25) meter swimming pool
  - c) A 1,000 gross square foot accessory building for the pool
  - d) A 150 foot by 250 foot active recreation playfield. (P)
18. The developer shall notify the last known representative of the Foxcroft Homeowners Association on file with the Planning Department of the submission of tentative subdivision plans. Such notice shall occur at least twenty-one (21) days prior to the approval of such plans. The developer shall provide the Planning Department with a copy of the notice. (P)
19. Construction traffic for development of the subdivision shall be prohibited on Fox Club Parkway through Foxcroft Subdivision. (P)
- (NOTE: This does not preclude construction traffic necessary to install utilities within, or build, Fox Club Parkway within Foxcroft Subdivision.)
20. Public roads shall be constructed with concrete curb and gutter. (T)
21. Access for the initial one hundred (100) lots recorded shall be provided to Otterdale Road (P)
22. Plans for Fox Club Parkway within Foxcroft Subdivision shall be submitted to the Planning Commission (either separately or in conjunction with tentative subdivision plan submission) for approval. If submitted separately, the developer shall be responsible for notifying the least known representative of the Fox Croft Homeowner's Association on file with the Planning Department of the submission of the plans and such notice shall occur at least twenty-one (21) day prior to the Commission's consideration of the plan. The developer shall provide the Planning Department with a copy of the notice. To the extent permitted by VDOT such plans shall include the following:
- a. Curb and gutter shall be used and shall be designed to accommodate



pedestrian/bicycle crossing near the intersection with Fox Gate Lane;

- b. The road typical section shall be a maximum width of twenty-eight (28) feet face of curb to face of curb except that for a section from the Fox Gate Lane Intersection west for an approximate distance of 100 feet the road typical section shall be a minimum six (6) foot wide raised median which shall be sodded and irrigated, and the pavement width on either side of the median shall be a maximum of fifteen (15) feet face of curb to face of curb;
  - c. The road typical section shall be located generally in the center of the right of way with minimal disturbance of vegetation on either side of the road;
  - d. Landscaping along both sides of the road (which may include existing vegetation) to minimize the view of the road from adjacent lots; and
  - e. A paved bicycle path on one (1) side of the road. (T)
23. Fox Club Parkway in Foxcroft Subdivision shall not be opened to traffic until the road is paved. (EE)
24. At a minimum, the following restrictive covenants shall be recorded for the development:

#### Architectural Board

The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the design and environmental standards. The standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, size of structures, driveway and parking requirements, foundations and length of structures, and landscaping requirements. Copies shall be available from the Architectural Board for review. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to Owners, builders, and developers who seek to engage in development of or construction upon property within their operations strictly in accordance therewith. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such times as fifty percent (50%) of all property within subject property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors of the Association shall have the right to appoint a maximum of two (2) additional members. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Association, and at least one (1) member shall be an architect licensed to practice in the State of Virginia, who shall also be the

Chairperson.

#### Mailboxes

Every improved lot shall be required to have a mailbox with supporting post and street light of design and installation as specified in the standards. Each lot owner shall be responsible for the maintenance and operation of the fixture, support, and mailbox.

#### Parking

Each property owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on said property in accordance with the standards.

#### Garages

All dwellings will have side or rear loaded garages.

#### Signs

No signs shall be erected or maintained on any property by anyone including, but not limited to, the owner, a realtor, a contractor, or a subcontractor, except as provided for in the standards or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Association.

#### Condition of Ground

It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on such property which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

#### Minimum Square Footage

No plan required under these Covenants will be approved unless the proposed house or structure has a minimum square footage of enclosed dwelling space as specified in the standards. Such minimum requirement for each lot will be specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas.

#### Residential Use

- a) All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as

herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the side and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building.

- b) A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling and provided, however, that such suite would not result in overcrowding of the site.
- c) The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

#### Exterior Structure Completion

The exterior of all house and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

#### Screened Areas

Each lot owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

#### Vehicle Storage

No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.

#### Temporary Structures

No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the

construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction,. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.

#### Antennas

No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Association for permission to install a television antenna and such permission shall not be unreasonably withheld.

#### Further Subdivision

No lot shall be subdivided or its boundary lines changed, nor shall applications for same be made to Chesterfield County, except with the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create modified building lot or replatted lot suitable and fit as a building site including, but no limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

#### Animals

Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet which has been a nuisance or a danger.

#### Section 14 – Motor Bikes All Terrain Vehicles

No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.

#### External Lighting

No external lighting shall be installed or utilized on any property which is of such character, intensity, or location as to interfere with the use, enjoyment, and privacy of any lot or owner in the near vicinity. No neon or flashing lights shall be permitted. All external lighting shall be approved by the Architectural

Board as appropriate in size, location, color, and intensity.

#### Swimming Pools

No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.

#### Rules and Regulations.

The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Association at least thirty (30) days prior to their effective date. (P)

AYES: Messrs. Gecker, Litton, Cunningham and Stack.

NAY: Mr. Gulley.

#### **F. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Cunningham, seconded by Mr. Litton, that the meeting adjourned at approximately 11:40 p. m. to February 18, 2003, at 12:00 Noon in the Executive Session Meeting Room of the Chesterfield County Government Complex.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

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Chairman/Date

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Secretary/Date